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THE ANDHRA PRADESH GAZETTE
PART-II EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 147]

HYDERABAD, TUESDAY, SEPTEMBER 11, 2012.

NOTIFICATIONS BY GOVERNMENT

—X—

FINANCE DEPARTMENT

(OP - I)

FIXATION OF SENIORITY IN THE CATEGORY OF ASSISTANT SECTION OFFICER – FINAL LIST OF SENIORITY IN THE CATEGORY OF ASSISTANT SECTION OFFICERS – OBJECTIONS RAISED BY CERTAIN ASOs.

[Memo.No.10592-C/422/A1/OP.I/2011, Finance (OP.I), Dated:7th September, 2012.]

- Ref:**
- 1 O.O.No.10, Finance (OP.I) Department, dated: 07.06.2012.
 - 2 Representation of Sri J.Chandra Sekhar and other ASOs dated: 07.05.2012, 14.06.2012, 21.06.2012, 22.06.2012, 5.7.2012, 07.07.2012, 13.07.2012, 17.7.2012, 02.08.2012 & 03.08.2012.
 - 3 Representation of Sri A.V. Subba Rao, dated: 21.06.2012, 07.07.2012 & 03.08.2012.

In the reference first cited, orders were issued notifying the final seniority list in the category of Assistant Section Officers (ASO) from 1988 to 2012. In the reference 2nd and 3rd read above, certain ASOs raised objections on the final Seniority of ASOs issued in the reference 1st cited.

2. At the outset it is pertinent to mention that as per Class-B category 4 of A.P. Secretariat Subordinate Service Rules the following qualifications are prescribed for appointment to the post of **Assistant Section Officer in Finance Department**.

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| (i) By Direct Recruitment: | Must possess a bachelor's degree in Mathematics or Economics or Commerce from any University in India established or incorporated by or under a Central Act, Provincial Act or a State Act or an Institution recognized by the University Grants Commission or an equivalent qualification. |
| (ii) By promotion of by appointment by transfer other than by transfer from Heads of Department: | (i) Must possess a Bachelor's degree in Mathematics or Economics or Commerce from any University from any University in India Established or incorporated by or under a Central Act, Provincial Act or State Act, or an Institution recognized by the University Grants Commission or an equivalent qualification. |
| (iii) By transfer from HODs | (ii) Must have passed Account Test for Subordinate Officers Part-I.
(iii) Must have passed the Special Test in Secretariat Office Manual/ Fundamental rules/General Rules subject to such test being prescribed and conducted. |

3. As per Rule 10 of A.P. Secretariat Subordinate Service Rules, the minimum service for promotion to the next higher category is 3 years and the relevant rule which is extracted below:

- (a) **“Unless otherwise provided in these rules, no person shall be eligible for appointment by transfer or promotion unless he has put in not less than three years of service but in no case shall it be less than two years, in the category from which appointment by transfer or promotion is made, exclusive of any period of service rendered by him in any of he Non-Secretariat Departments”.**

As per *explanation (i) under Rule 4 of A.P. State and Subordinate Service Rules, 1996*, “*notwithstanding anything contained these rules or special adhoc rules, “substantive vacancies” shall mean all vacancies in the posts which have been in existence for more than 5 years*”.

4. According to Rule 8 (1) of A.P. Secretariat Service Rules, “in case no direct recruits are available at the time a vacancy has occurred, it has to be presumed that the two (2) vacancies meant for direct recruits will have to be carried forward by filling the remaining six (6) vacancies by transferees and promotees respectively”. According to Rule 16(a) of A.P. State and Subordinate Service Rules, 1996, “a person appointed in accordance with the rules, otherwise than under Rule 10, by direct recruitment shall commence his probation from the date of his joining the duty or from such other date as may be specified by the appointing authority”.

5. As per Rule 33 (a) of A.P., State and Subordinate Service Rules, 1996, the seniority of a person in a service, class, category are grade shall, unless he/she has been reduced to a lower rank as punishment be determined by the date of his/her first appointment to such service, class, category or grade.

6. According to instructions issued vide Circular Memo No. 16/Ser.A/93-39 of General Administration (Ser.A) Department, dated 21.04.1999, **inter alia, that the seniority of a direct recruit is to be determined only from the date of his/her joining duty but not from the date on which the vacancy earmarked for a direct recruitment arose.** As per clarification at para 14(c) of the said Memo, **if an employee is promoted to a post earmarked for direct recruitment, his probation shall not be commenced from the date of his appointment into the slot earmarked for direct recruitment but shall be reckoned only from the date on which he would have occupied the vacancy meant for promotee.**

7. Therefore, it is evident from the existing rule position that the date of appointment is not the criteria for fixing the seniority for the promotees appointed against posts earmarked for direct recruitment and their seniority will be determined from the date on which they would have been appointed regularly in their quota.

I. OBJECTIONS RAISED IN THEIR REPRESENTATIONS DATED.17.07.2012:

8. Sarvasri J. Chandra Sekhar, Mohd. Iqbal Hussain, R. Naga Jyothi, B. Madhavi, P. Nageswara Rao and A.V. Subba Rao in their representations dated.17.07.2012 have pointed out that, before direct recruit ASOs joining in

May 2005, 58 posts of ASOs were vacant. After their joining as ASOs in June 2005, still 51 posts of ASOs were vacant. Moreover, 15 ASOs of Single Unit were working due to dearth of ASOs in Finance Department. Therefore, their argument is that the version of Direct Recruittee A.S.Os that the promotees are enjoying in their posts is far from the truth. They have argued that the claim of seniority over the direct recruittees is arbitrary and illegal as per G.O.Ms.No.607, G.A. (Ser.A) Department, dated 06.11.1992 and as per Cir.Memo. No. 57759/Ser.A/2004-1, G.A. (Ser.A) Department dated 20.05.2004. They furnished a list of officers consisting 31 names, who retired/died while in service during the years from 1995 – 1996 to 2004 – 2005 and alleged that their names were not taken into account while computing the vacancy position. The list of Officers given by them is as follows:

Sl.No.	Name of the individual	Designation
1	K. Balaji Singh	J.S. Retd.
2	B.Y. Satyanarayana	J.S. Retd.
3	M.A. Habeeb	J.S. Retd.
4	V.S. Prakasa Rao	J.S. Retd.
5	K. Babu Rao	JD Retd. (WA Dept.)
6	CH. Narasimham	A.O. (Expired)
7	B.V. Bhaskar	Absorbed in T.A. Service
8	S. Sreekanth	Absorbed in APAO
9	K.Y. Naseeruddin	S.O. Retd
10	C. Sulochana Bai	S.O. Retd.
11	Srirammohan Rao	S.O. Retd
12	M. Anantha Krishna Rao	A.O. (Expired)
13	K.S.N. Murthy	S.O. Retd.
14	A.S.N. Murthy	S.O. Retd.
15	Koteswaraiah	A.O. (Absconding)
16	Anjaneya Raju	Absorbed in P.R., Service
17	V. Savithri	S.O. Retd.
18	B. Varasri	S.O. Retd.
19	Darshan Singh	Absorbed in T.A. Service
20	S. Ranga Rao	Absorbed in T.A. Service
21	Ekambereswara Rao	Absorbed in T.A. Service
22	Amruth Prakash	Absorbed in PAO
23	T.V. Ravindranath	Absorbed in WA Service
24	L.M.L. Narasimha	A.S.O. Retd.
25	M.A. Sattar	Absorbed in T.A. Service
26	Chenna Rayudu	S.O. Retd.
27	Krishnamurthy Sirdesai	S.O. Retd.
28	H.M. Desai	S.O. Retd.
29	M.V. Ramana Murthy	A.S. Retd.
30	K. Gladly	Absorbed in T.A. Service
31	P. Arun Kumar	Absorbed in T.A. Service

9. They have argued that the names of the above Officers were not taken into account while calculating the vacancies of ASOs and issued final list of seniority in O.O.No.10 Finance (OP.I) Department, dated 07.06.2012 duly pushing them below the direct recruittee batch of 2005 without giving any notice or opportunity to defend their case. The exercise was done, it was alleged, without taking the vacancies that had arisen due to retirement of above individuals, which is against the procedure for fixing the seniority in a particular category.

REPLY:

10. With reference to their contention, it is stated that, while estimating the vacancies, all the officials who had transferred/promoted/ retired and expired during the panel years from 1995-96 to 2004-05 were taken into account. It is found that of 31 names, the details of two individuals i.e., Sri K.S.N. Murthy, A.S.N. Murthy, are not available in the Department; and the name of Sri P. Koteswarayya cannot be considered, as he was absconding from duty from the year 2005-06 onwards until the time of his virtual retirement on 31-07-2009.

11. Further, during the said period the following Officers were on deputation with other Government Departments

and Ministers Peshis and as such their lien has to be continued in this Department and the vacancies caused due to filling these posts cannot be treated as substantive vacancies for fixing the seniority in a cadre. During the said period the following officers were on deputation with other Government Departments/Minister's Peshies and their lien was protected in this department.

Sl.No.	Name of the individual Sarvasri
1	B.V. Subba Reddy on OD in the Peshi of Hon'ble Minister for Agriculture (Now Revenue)
2	M. Narsinga Rao, SO (CMO)
3	G. Siva Krishna, S.O. (on OD in CMO as Addl. P.S. to Prl. Secretary to CM.)
4	N. Venkateswarlu, ASO (on O.D. in CMP as P.A. and now SO, OP.II)
5	K.V. Krishna Rao, ASO (Retd.) on OD in CM Peshi
6	J. Sivaiah, ASO (AAO) Now AO on OD as AAO, RTA, Hyderabad.
7	M. Yogi Reddy, ASO (Now S.O.) on O.D. as AAO, Protocol
8	K.N. Malleswara Rao, now D.S. to Govt., (on O.D. as A.O., Small Savings)
9	T.N. Das (APPO, O/o Commissioner, Higher Education)
10	Gopal, SO (A.O., O/o the Director of Green Corps)

12. Further during the period from 1995-1996 and 2004-2005 two PRCs and One Anomalies Committee were appointed and for this purpose following posts in the categories of A.S.O. and above were created.

Sl.No.	Year of PRC	Number of Posts Sanctioned	Vide G.O. & dated	Number of Posts Sanctioned
1	1999 PRC	23 posts	1 G.O.Ms.No.137, G.A. (SU.IV) Dept., dated.20-04-1998. 2 G.O.Rt.No.3143, G.A. (SU.IV) Dept., dated.30-07-1998. 3 G.O.Rt.No.3310, G.A. (SU.IV) Dept., dated.10-08-1998. 4 G.O.Ms.No.60, G.A. (AR&T-I) Dept., dated.23-02-1998. 5 G.O.Ms.No.59, G.A. (AR&T-I) Dept., dated.23-02-1998.	2 posts 6 posts 6 posts 3 posts 6 posts
2	2003 PRC	16 posts	G.O.Ms.No.383, Fin (SMPC) Dept., dated.02-04-2004.	16 Posts
3	Anomalies Committee	4 posts	2001	4 Posts
Total		43 Posts		43 Posts

13. These posts were created only on tenure basis for a particular purpose for a specific duration. As stated at pre paras, the posts which are in existence for more than five years period above have to be treated as substantive posts and vacancies caused in these posts have to be treated as substantive vacancies. No direct recruitment can be made to these posts as these posts are tenure posts and these **posts can be filled up with other mode of recruitment such as by promotion or by appointment on transfer.** As and when the tenure of the posts become extent, the incumbents working in these posts have to be reverted to their substantive posts in the lower category or reverted back to their original posts respectively. During the said period there were **53 (43 + 10) vacancies which are temporary/Tenure basis which cannot be treated as substantive vacancies** in terms of A.P. State and Subordinate Service Rules, 1996. In such a case the quota/rota cannot be applied for these posts. Direct Recruitment has to be made to the substantive vacancies only.

14. In this background, Sarva Sri J. Chandra Sekhar, Mohd. Iqbal, B. Madhavi and A.V. Subba Rao were given a personal hearing by Prl. Secretary to Government (FP) and incharge of Principal Secretary to Government (R&E) to explain their grievances in person on 01.08.2012 and were also requested to provide the documentary evidence in case any information/gaps are noticed to be existing with the Department.

II.OBJECTIONS RAISED IN THEIR REPRESENTATIONS DATED 02.08.2012:

15. Accordingly, Sarva Sri J. Chandra Sekhar, Mohd. Iqbal and B. Madhavi in their representation dated. 02-08-2012 have submitted that, the names of four officers viz., Sri H.M. Desai, S.O. Sri K.S.N Murthy, SO,

Sri ASN Murthy, SO & Sri Koteswarayya were ascertained from their senior and retired officers, hence there is no paper evidence readily available with them and they requested to regret for quoting the names without proper evidence. They have also furnished another four names of the officials that were not included in the seniority list i.e., 1. Sri P.V.M.G. Sastry, S.O. Retired on 30-09-2002, 2. Smt. D.V. Rama Lakshmi, S.O. Retired on 31-10-2002, 3. Sri S. Krishna Murthy on OD retired on 31.01.2005 and 4. Sri T.D. Jaya Prasad on OD retired on 31-05-2005. They have furnished the retirement notifications issued by the Government from time to time.

REPLY:

16. If the names of these 4 Retired Officers are considered, then also their will be no change in the seniority already assigned to the applicants on the following grounds.

While issuing final seniority list this Department has taken into consideration 80 vacancies out of which 64 vacancies are identified as substantive vacancies. The applicants mentioned another 35 names out of which they have not given the satisfactory documentary evidence for 3 names. By considering the remaining 32 names, total vacancies during the above crucial period would be 112, out of which 49 vacancies were either tenure or temporary vacancies caused due to deputation of certain individuals to other Government Departments on OD basis or with Minister's Peshies leaving 63 vacancies as substantive vacancies. In the orders issued in the reference 1st read above, this Department has taken 64 vacancies as substantive vacancies which is in order duly considering the names furnished by the applicants.

17. Sarvasri J. Chandra Sekhar, Mohd. Iqbal and B. Madhavi were heard again by the Principal Secretary to Government (FP) on 02.08.2012 and requested them to furnish the substantive reasons if any to consider their objections. But they have not furnished any substantive grounds or reasons in their further representation on 03.08.2012.

III.OBJECTION RAISED IN THEIR REPRESENTATIONS DATED 03.08.2012:

18. In their representation dated:03.08.2012, they further represented that as per Rule 10 (a) of A.P. Secretariat Subordinate Service Rules, the minimum service to be reckoned is as follows:

“(a) Unless otherwise provided in these rules, no person shall be eligible for appointment by transfer or promotion unless he has put in not less than three years of service but in no case shall it be less than two years, in the category from which appointment by transfer or promotion is made, exclusive of any period of service rendered by him in any of the Non-Secretariat Departments.”

19. In case of J. Chandra Shekhar, ASO and Mohd, Iqbal Hussain, ASO though they have completed two years of service in the category of TCA by 30-11-2002 and in case of B. Madhavi, she completed 2 years of service in the category of TCA by 01-07-2004. It is stated that in respect of the 1995 batch of TCAs, they were promoted as A.S.Os after completion of 2 years of service in the category of TCA and their service were regularized from the date of promotion from the date of completion of 2 years. Recently, Sri K. Ranjeet, TCA was also promoted to the category of A.S.O. after completion of 2 years of service in the category of TCA. Hence, considering their names for regular promotion as A.S.Os duly taking 3 years service in the category of TCA is unfair.

REPLY:

20. Sri J.Chandra Sekhar, Sri Md. Iqbal Hussain, and Smt. B. Madhavi were promoted as ASOs on adhoc basis vide O.O.No.11, dated 22.05.2003 with a condition that they would be eligible for regular appointment from the date on which they fulfill all the conditions laid down in A.P. Secretariat Subordinate Service Rules 1996 and as and when clear vacancies arise for them within the quota meant for promotion. The service rendered as TCA by the individuals is as follows.

Sl.No.	Name of the individual	Date of regular appointment as TCA	Probable date for appointment of A.S.O. after completion of three years .	Date of adhoc promotion as A.S.O
1	Sri J.Chandra Sekhar	27.06.2001	26.06.2004	22-05-2003
2	Sri Md. Iqbal Hussain	01.08.2001	31.07.2004	22-05-2003
3	Smt. B. Madhavi	01.07.2002	30.06.2005	22-05-2003

21. Since the individuals have not completed the minimum service as stipulated in A.P. Secretariat Subordinate Service Rules, they were given promotion as A.S.O. on adhoc basis. As per Rule 10 of A.P. Secretariat Subordinate Service Rules, the minimum service for promotion to the next higher category is 3 years and the relevant rule which is extracted below:

“Unless otherwise provided in these rules, no person shall be eligible for appointment by transfer or promotion unless he has put in not less than three years of service but in no case shall it be less than two years, in the category from which appointment by transfer or promotion is made, exclusive of any period of service rendered by him in any of the Non-Secretariat Departments”.

22. In Memo.No.53975/Ser.D/2000-3, dated.09-01-2001 the General Administration (Ser.D) Department have clarified that **“a person appointed or promoted on adhoc or temporary basis without fulfilling the required number of years of service in the feeder category, by invoking rule 10 (a) of the A.P., State and Subordinate Service Rules, may be allowed to count his service in higher category or class as the case may be to the extent of the period of duty performed by him in the latter service during which he would have held the post in the former service but for such appointment in the latter service and the probation of such individual so promoted or appointed may have to be commenced from the next date of such completion of the required period of service in the former service (in the lower feeder category)”.**

23. Since their basic (feeder) post in the A.P. Secretariat Subordinate Service is Typist-cum-Assistant and in such a case they have to complete minimum period of 3 years in the said category to get promotion to the next higher category of Assistant Section Officer. They have not objected to the said conditional promotion for all these years but pointing out now stating that injustice was done to them. They have to complete 3 years of service in terms of A.P., Secretariat Subordinate Service Rules. They cannot compare their case with Sri K. Ranjeet who was given regular promotion without any condition. Further he is the last person in the seniority list of A.S.Os and as such there is no effect on other seniors in the list due to his promotion. **“Even, if their contention of 2 years service in the category of Typist-cum-Assistant is considered, then also there will be no change in their place in the seniority list, as they are promoted to the post of ASO which are temporary/tenure posts and not the substantive vacancies”.**

24. The condition of minimum period of 3 years service for promotion laid down in the above mentioned rule in a General Rule, where as the 2 years service in an exception in some exceptional circumstances. Therefore, only the criteria of 3 years minimum service is to be followed as a General Rule. Further, the rule position is not relevant here, as seniority in this case is on par with rule 33 of A.P., State and Subordinate Service Rules proceeded by the rule of Government Memo No. 16/Ser.A/ 93-39 of General Administration (Ser.A) Department, dated 21.04.1999.

25. Hence, Sri J. Chandra Sekhar, Sri Md. Iqbal Hussain, and Smt. B. Madhavi will be eligible for regular appointment as A.S.O. from the date on which they fulfill all the conditions laid down in A.P. Secretariat Subordinate Service Rules 1996, as and when clear vacancies arise in the category of A.S.O., within the quota meant for promotion.

IV. OBJECTION:

26. As seen from the calculation list of final seniority in the O.O.No.10, the Department has arrived 80 vacancies in the category of A.S.O out of which 16 temporary posts which were less than 3 years old were deducted and the total substantive vacancies of A.S.Os arrived at 64 in which Direct Recruitment quota is (30%) 18 and promotees/transferees quota shown as (70%) 46. As seen from the seniority list the 46th vacancy meant for promotees may have to be started at Serial No.42 i.e., from S.S. Sudhakar (as the Seniority upto Sl.No.41 (Sri N. Chander Rao was already settled). But the promotees quota seniority was therefore started from serial No.37 i.e., from Sri P. Veda Prakash.

REPLY:

27. The basis for arriving the vacancies for each panels are as per retirement and the posts sanctioned/created duly considering substantive vacancies. Out of the said vacancies, 16 vacancies are purely temporary created for one year for PRC 2005 purpose and are not treated as regular vacancies and these posts automatically get abolished as and when the purpose is completed. Hence, 64 vacancies are identified as regular. Accordingly, 8 vacancy cycle has been followed and 8 cycles were completed. As per the cycle, 18 vacancies are earmarked for Direct Recruits and 46 vacancies are earmarked for promotees/transferees.

28. Since it is a settled seniority the promotees have to be placed after Direct Recruits of 1995. After their names only, the promotees quota has to be counted i.e., from Sri P. Veda Prakash as he is the senior most among the promotees and it was calculated from Serial No.37 to Serial No.46. Hence, it is not correct to calculate the promotees quota from Sri S.S. Sudhakar as represented.

V. OBJECTION RAISED BY SRI A.V. SUBBA RAO IN HIS REPRESENTATIONS DATED 02.08.2012 & 03.08.2012:

29. Sri A.V. Subba Rao, in his representations, dated.02.08.2012 & 03.08.2012 has represented that in the provisional seniority list his name was shown at Sl.No.88 which is below Sri P. Nageswara Rao and above Smt. Anasuya Sree Devi and in the final seniority list he was assigned at serial no.98 below the DRs.

REPLY:

30. From the year 1995 to 2005 ten (10) individuals were appointed as A.S.O. under 12 ½ quota in Finance Department. As per cycle system only nine (9) individuals have to be appointed under 12 ½ quota. The following transferees were taken into consideration while finalizing the seniority list.

1. Ansar Ahmed
2. B. Jayappa
3. M. Narsing Rao
4. S.S. Sudhakar
5. Ch. Bhagwan Das
6. D. Madhusudhana Reddy
7. N. Venkateswarlu
8. DTA, Senior Accountant not joined (quota utilized)
9. E.V.V. Subba Rao
10. K. Somaiah
11. A.V. Subba Rao

31. Sri A.V. Subba Rao appointed as A.S.O. in the year 2003 was repositioned at serial no.98 below DRs. Since he has occupied the position earmarked for DRs and there is no merit in consideration on the request of the individual.

32. As seen from the above, only 9 persons under 12 ½ % quota has to be considered in substantive vacancies, but 11 persons appointed on transfer. Therefore, two persons appointed on Transfer in excess of the quota for transferees were repositioned.

33. Accordingly, the seniority of Sri K. Somaiah and Sri A.V. Subba Rao who were appointed as A.S.Os on transfer were shown at Serial No.93 and 98 respectively in the posts earmarked for transferees.

34. Thus after examining the representation carefully and after giving the petitioners a fair opportunity to present their case by giving personal hearings, it has been found that there is no merit in their representations and their claims are not maintainable and there are no grounds to revise the final seniority published in O.O.No.10, Finance (OP.I) Department, dated.07-06-2012 vide Gazette No.123, dated 08.08.2012.

V. BHASKAR,

Principal Secretary to Government.

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